IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
APR 28 2010
Phil Lombardi, Clerk
U.S. DISTRICT COURT

JOHN THOMAS WATTERS, Plaintiff, vs. 1) FEDERAL BUREAU OF INVESTIGATION, 2) DEPARTMENT OF JUSTICE CRIMINAL DIVISION, 3) EXECUTIVE OFFICE OF THE UNITED STATES ATTORNEY, 4) OKLAHOMA BUREAU OF NARCOTICS, 5) OSAGE COUNTY SHERIFFS DEPARTMENT, Defendants.	§	10 CV - 270 GKF PJC Civil Case No.________ Complaint under the Freedom and Privacy Act and Request for Production of Documents 5 USC 552 and 5 USC 552(a)

COMPLAINT

COMES NOW, John Thomas Watters, Plaintiff pro se, and states the following as his cause of action:

JURISDICTIONAL STATEMENT

1) This cause of action arises under the provisions of the Freedom of Information and Privacy Acts 5 USC 552(a); further, this Court has jurisdiction and venue in this matter by virtue of the provisions of 5 USC 552(a)(4)(b).

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5 Summonses in Service Hold Tray

COUNT I

1) Plaintiff was sentenced upon Criminal Case No. 05-CR-70-CVE in this United States District Court, Northern District of Oklahoma, on May 26, 2006, and presently resides in Seagoville, Texas at the Seagoville Federal Correctional Institution;

2) The Federal Bureau of Investigation and Department of Justice - Criminal Division are departments of the United States Government which has among its constituant agencies the Federal Bureau of Investigation and Department of Justice - Criminal Division, herein named as Defendants;

3) The Federal Bureau of Investigation and Department of Justice - Criminal Division are agencies within the meaning of the term "agency" as that term is used in the Freedom of Information and Privacy Act;

4) The Federal Bureau of Investigation and Department of Justice - Criminal Division prepare and maintain a system of records pertaining to investigation of Defendants who are subject to the jurisdication of the United States District Courts which includes the Northern District of Oklahoma.

5) Both Oklahoma Bureau of Narcotics and Osage County Sheriff Department acted in concert with federal agencies in this matter and thus for the purposes of this litigation are agencies of the federal Department of Homeland Security.

6) That between August 31, 2009 and September 2, 2009, the Plaintiff made requests in writing for copies of documents and

records within the systems of records maintained by the Federal Bureau of Investigation, the Department of Justice - Criminal Division, the Oklahoma Bureau of Narcotics and the Osage County Sheriff Department as to Criminal Case No. 05-CR-70-CVE, which documents and records may have been created and compiled during the years 2002 through and including 2007;

7) Specifically, Plaintiff requested that he be furnished within ten (10) days as provided by law [5 USC § 552(a)(6)(A)], copies of the following specified documents or information: For years 2002 through and including 2007, all documents, records, reports, and communications naming or concerning John Thomas Watters;

8) Further, the request is not limited to the above. It includes all documents, reports, pictures, exhibits, memorandums, letters, summaries, handwritten note, recordings, and all other information concerning John Thomas Watters which is contained in their offices under the supervision and administration of the above stated agency or branch of government including but not limited to companion investigations of Kenneth Jones, Michelle Quisenberry, Jerry Harris, and others;

9) The request was made pursuant to the provisions of the Freedom of Information and Privacy Acts, Title 5 USC §§ 552, 552(a);

10) Defendants have failed, refused, and neglected to comply with Plaintiff's reasonable requests for records, documents, and discovery;

11) On or about September 23, 2009 Plaintiff elected to treat the failure of Defendants to produce, respond, and comply with Plaintiff's requests as denial of his requests;

12) Plaintiff brings this civil action for the purpose of compelling the Defendants to disclose to the Plaintiff his entire record of investigation for the years 2002 through and including 2007 as maintained within the system of records maintained by all named Defendants; further, that the requested documents were mailed to the Defendants on August 25, 2009 and on or about August 27, 2009;

13) The said FOIA requests are in reference to Federal Criminal Case No. 05-CR-70-CVE and any and all other Federal, State, and local investigations to which the Defendants have knowledge.

COUNT II

Comes now plaintiff, John Thomas Watters, pro se, in the above cause and moves the court to enter an order granting request for production of the following documents for the years 2002 through and including 2008, to-wit:

a) All F.B.I. reports concerning John Thomas Watters;

b) All communication by the US Attorney's Office concerning John Thomas Watters;

c) All in-house agency written reports, documents, records, hand-written notes naming John Thomas Watters or concerning John Thomas Watters collected and/or retained by the named federal agencies;

d) All other relevant documents concerning the investigation of John Thomas Watters, Kenneth Jones, Michelle Quisenberry, and Jerry Harris.

WHEREFORE, as to Count I and II, the Plaintiff prays for an order to issue from the Court directing each of the defendants to each disclose to the Plaintiff all above requested records which name or concern John Thomas Watters between the years 2002 and 2008.

Further, because the filing of this action could have been avoided by defendants' timely production of the documents sought by Plaintiff, Plaintiff moves this Court to direct defendants to pay the costs of this action, and for such other relief as the Court deems just in the premises.

DATED 4-22-2010 John Thomas Watters

John Thomas Watters
Reg. No. 09753-062
FCI Seagoville
P. O. Box 9000
Seagoville, TX 75159-9000

EXHIBIT A.

U.S. Department of Justice

Criminal Division

Office of Enforcement Operations *Washington, D.C. 20530*

CRM- 201000074P

[illegible] 9 2010

Mr. John Thomas Watters
Reg. No. 09753-062
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159-9000

Dear Mr. Watters:

This is in response to your request dated August 25, 2009 and letter of January 5, 2010.

Since you did not return the attachment to our correspondence dated September 17, 2009 (Current Descriptive List of Sections of the Criminal Division) designating what sections of the Criminal Division you wished searched, we conducted a search of our central index of records and no records were located concerning you.

Since your request may involve records that would be maintained by the Office of an U.S. Attorney, you may also wish to direct a request to the Executive Office for U.S. Attorneys if you have not already done so. Your request should be directed to: Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, Room 7200, 600 E Street, N.W., Department of Justice, Washington, DC 20530-0001.

If you consider this response to be a denial of your request, you have a right to an administrative appeal of this determination. Your appeal should be addressed to: Office of Information Policy, United States Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, DC 20530-0001. Both the envelope and the letter should be clearly marked with the legend "FOIA Appeal." Department regulations provide that such appeals must be received by the Office of Information Policy within sixty days of the date of this letter. 28 C.F.R. 16.9. If you exercise this right and your appeal is denied, you also have the right to seek judicial review of this action in the federal judicial district (1) in which you reside, (2) in which you have your principal place of business, (3) in which the records denied are located, or (4) for the District of Columbia. If you elect to file an appeal, please include, in your letter to the Office of Information Policy, the Criminal Division file number that appears above your name in this letter.

Sincerely,

Rena Y. Kim by [illegible]

Rena Y. Kim, Chief
Freedom of Information/Privacy Act Unit

EXHIBIT A 1

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John Watters
09753-062
Bldg 6

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City, State, ZIP+4
Washington, DC 20530

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1. Article Addressed to:

Rena Y. Kim, Chief
FOIA/PA Unit
Criminal Division
Keeney Bldg, Suite 1127
Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C.
20530

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EXHIBIT B 1

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John Watters
09753-062
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PS Form 3800, June 2002 See Reverse for Instructions

Rena Y. Kim, Chief
FOIA/PA Unit
Criminal Division
Keeney Building, Suite 1127
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Date Received
11-10-09

Date Stamped
11-2-09

EXHIBIT B

October 29, 2009

Rena Y. Kim, Chief
FOIA/PA Unit
Criminal Division
Keeney Building, Suite 1127
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

RE: CRM-200900656P

Dear Sir or Ms.:

This is in response to your letter dated September 17, 2009 requesting additional information:

1) Judicial District: Northern District of Oklahoma

2) Date of Conviction: February 24, 2006

3) Date of Arrest: May 13, 2005

4) Count 1) 21:846:Conspiracy
Count 2) 21:841(a)(1), 841(b)(1)(A)(vii): Possession with intent to Distribute Controlled Substance; Distribution of a Controlled Substance
Count 3) 21:856(a)(2) and 856(b): Maintaining Drug Involved Premises;
21:853: Drug Forfeiture
Count 4) 19:922(g)(1), 924(a)(2): Felon in Possession of Firearms; and
18:924(d); 28:2461(c); Firearms Forfeiture

Thank you for your time and assistance.

Dated 4-22-2010 John Thomas Watters

John Thomas Watters
Reg. No. 09753-062
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159-9000

EXHIBIT C

U.S. Department of Justice

Criminal Division

Office of Enforcement Operations *Washington, D.C. 20530*

CRM-200900656P

John Thomas Watters
Reg. No. 09753-062
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159-9000

Dear Mr. Watters:

This will acknowledge receipt of your letter of August 25, 2009 requesting records relating to you. This Office has assigned your request file number 200900656P. Please refer to this number in any future correspondence with this Unit.

We are unable to search for the records you requested because you have not furnished the following item(s) in compliance with 28 C.F.R. 16.41.

[ ] Certification of Identification Form. Notarized signature or Declaration pursuant to 28 U.S.C. Section 1746.

[X] Current Descriptive List of Sections of the Criminal Division. Please review this list and indicate which sections you wished searched.

[X] Additional Information describing the records sought. Please provide the judicial district(s) or state(s) where you were convicted, dates of conviction(s) and arrest(s), and federal offense(s) involved.

Copies of the requested form(s) are enclosed.

Please return the requested form(s) and/or information within 30 days to Rena Y. Kim, Chief, FOIA/PA Unit, Criminal Division, Keeney Building, Suite 1127, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530. If we do not hear from you within 30 days, we will close-out your request with this Office.

Sincerely,

Rena Y. Kim by Kwf

Rena Y. Kim, Chief
Freedom of Information/Privacy Act Unit

EXHIBIT D

REQUESTER'S NAME John Thomas Watkins CRM NO 200900656P

DESCRIPTIVE LIST OF CRIMINAL DIVISION SECTIONS THAT MAINTAIN RECORDS BY PERSONAL IDENTIFIERS

TO EXPEDITE YOUR REQUEST: Please read the description of the information contained in each Criminal Division section before requesting a search of that office. You may request a search of any Criminal Division section that you *reasonably* believe may contain records relating to you. However, if you have no reason to believe that a particular section will have information about you, requesting that section may cause unnecessary delays in our response. **Please be aware that most Federal prosecutions are conducted by the local United States Attorney's Office, whose records may be requested from the Executive Office for United States Attorneys, and *not the Criminal Division*.** Also, if you are seeking records of other components of the United States Department of Justice (such as the FBI or the DEA) or of offices/agencies of the United States government, you should address your request directly to those components/agencies. A listing of addresses of the FOIA contacts for all Federal agencies may be found at http://usdoj.gov/foia/foiacontacts.htm.

☐ **Appellate Section**

The Appellate Section prepares draft briefs and certiorari petitions for the Solicitor General for filing in the U.S. Supreme Court; makes recommendations to the Solicitor General as to whether further review is warranted on adverse decisions in the district courts and courts of appeals; and prepares briefs and argues cases in the courts of appeal. The Section also prepares and argues motions in significant district court cases.

☐ **Asset Forfeiture and Money Laundering Section (AFMLS)**

AFMLS investigates and prosecutes complex money laundering and asset forfeiture cases and provides support on asset forfeiture and money laundering issues to each of the 93 United States Attorneys' offices and the component agencies.

☐ **Capital Case Unit (CCU)**

CCU is primarily responsible for assisting the Attorney General's Review Committee on Capital Cases (AGRCCC) in its evaluation of capital cases submitted by United States Attorneys to the Department of Justice for review and recommendation to the Attorney General concerning the appropriateness of seeking the death penalty.

☐ ~~**Child Exploitation and Obscenity Section (CEOS)**~~

CEOS prosecutes violations of federal law related to producing, distributing, receiving, or possessing child pornography, transporting women or children interstate for the purpose of engaging in criminal sexual activity, traveling interstate or internationally to sexually abuse children, and international parental kidnaping.

☐ **Computer Crime and Intellectual Property Section (CCIPS)**

CCIPS investigates and prosecutes computer and intellectual property crimes by working with other government agencies, the private sector, academic institutions, and foreign counterparts.

☐ **Domestics Security Section (DSS)**

DSS investigates and prosecutes criminal organizations that smuggle aliens, including those that have ties to terrorist organizations, as well as individuals who illegally harbor aliens, provide false identification documents, and contract with smuggling groups to obtain illegal workers for factories and plants. DSS also investigates and prosecutes violent crime cases for which federal jurisdiction exists, including the prosecution of firearms and explosives.

☐ **Fraud Section**

The Fraud Section investigates and prosecutes complex white collar crime cases throughout the country.

☐ **Gang Squad**

The Gang Squad enforces federal criminal laws relating to gangs. Gang Squad attorneys investigate and prosecute criminal organizations including national and international organizations that present particular threats to national security and violent street gangs.

☑ **Narcotic and Dangerous Drug Section (NDDS)**

NDDS has the responsibility of enforcing federal statutes pertaining to narcotic drugs and other controlled substances. The section advises the Assistant Attorney General, Criminal Division, Department of Justice and other federal officials involved in drug enforcement on all matters related to federal narcotics law enforcement including proposed and enacted legislation, policy, enforcement initiatives, and criminal and civil litigation. The section has direct litigation responsibilities in significant investigations and prosecutions targeting national and international narcotics trafficking and money laundering organizations.

Office of Enforcement Operations (OEO)

You may request a search of any OEO unit that you reasonably believe may contain records relating to you:

OEO oversees the following units within the Criminal Division:

☐ **Policy and Statutory Enforcement Unit (PSEU)**

PSEU handles media subpoenas, court closures, grand jury disclosure requests, S visa applications, witness immunities, attorney subpoenas, attorney search warrants, dual prosecution requests, global plea agreements, comments on proposed legislation, and various legal advice matters.

☑ **Electronic Surveillance Unit (ESU)**

ESU is responsible for reviewing all federal electronic surveillance requests and requests to apply for court orders permitting the use of video surveillance; providing legal advice to federal, state and local enforcement agencies on the use of federal electronic surveillance statutes; and assisting in developing Departmental policy on emerging technology and telecommunications issues.

☐ **International Prisoner Transfer Unit (IPTU)**

IPTU approves transfer of prisoners to and from foreign countries to serve the remainder of their prison sentences. Prisoner transfer treaties are negotiated principally by the U.S. Department of States, but the program is administered by the Department of Justice.

N/A **Witness Security Unit**

All information pertaining to Witness Security matters is exempt from disclosure under the Privacy Act pursuant to 5 U.S.C. § 552a(j)(2), and from the FOIA pursuant to Exemption 3 of the FOIA, in conjunction with 18 U.S.C. § 3521(b)(1)(G), a provision of the Witness Security Reform Act of 1984. Consequently, this information is not available through the FOIA/PA Unit. Information from this system can be requested **only by writing directly to:**

United States Department of Justice, Office of Enforcement Operations, Witness Security Unit, P.O. Box 7600, Washington, D.C. 20044-7600

Pursuant to the Witness Security Reform Act, the Attorney General is required to evaluate each request on its merits, after weighing (1) the danger such a disclosure would pose to the witness, (2) the detriment it would cause to the general effectiveness of the witness security program, and (3) the benefit such disclosure would afford to the public or to the person seeking the disclosure. Therefore, you must include a detailed explanation of the purpose for which you are seeking the information and a statement of how you intend to use the material, if released.

☐ **Gambling and Legislative History Unit**

Gambling and Legislative History Unit registers entities as required by the Gambling Devices Act of 1962 and is responsible for compiling a limited number of legislative histories for public laws of interest to the Criminal Division

☑ **FOIA/PA Unit**

The FOIA/PA Unit processes all Freedom of Information Act (FOIA) and Privacy Act (PA) requests for records received by the Criminal Division and is responsible for coordinating with all Sections of the Division, and other legal divisions of the Department, regarding collection, maintenance and use of data to insure full compliance with the FOIA and PA.

☐ **Office of International Affairs (OIA)**

OIA provides advice and assistance on international criminal matters to the Attorney General and other senior Department of Justice officials, the Criminal Division and the Department's other legal divisions, the U.S. Attorneys offices, and state and local prosecutors. OIA coordinates the extradition or other legal rendition of international fugitives and all international evidence gathering. In concert with the State Department, OIA engages in the negotiation of new treaties, conventions, and other agreements on international criminal matters.

☐ **Office of Special Investigations (OSI)**

OSI detects, investigates and takes legal action to denaturalize participants in genocide, foreign government-sponsored acts of torture or extrajudicial killing, and Nazi-sponsored acts of persecution committed abroad during the period 1933-45. In the World War II cases, OSI is also responsible for taking legal action to achieve removal (deportation) and exclusion.

☐ **Organized Crime and Racketeering Section (OCRS)**

OCRS coordinates the Department's program to combat organized crime.

☑ **Executive Office for Organized Crime Drug Enforcement Task Force (OCDETF)**
OCDETF supports the work of more than 2,500 federal agents and prosecutors and approximately 6,000 state and local law enforcement officers who participate in OCDETF cases.

☐ **National Gang Targeting, Enforcement & Coordination Center (GangTECC)**
GangTECC is a multi-agency center designed to serve as a critical catalyst in a unified federal effort to help disrupt and dismantle the most significant and violent gangs in the United States.

☐ **Hurricane Katrina Fraud Task Force**
The Task Force combats all types of fraud relating to Hurricane Katrina and its aftermath, with an initial emphasis on charity fraud, identity theft, insurance fraud, and procurement and government-benefit fraud.

☐ **National Procurement Fraud Task Force**
The National Procurement Fraud Task Force was created on October 10, 2006, to promote the prevention, early detection and prosecution of procurement fraud.

☐ **Obscenity Prosecution Task Force (OPTF)**
OPTF enforces the Nation's obscenity laws. OPTS's trial prosecutors and law enforcement agents partner with United States Attorneys to initiate and conduct investigations and prosecutions under federal statutes prohibiting obscenity crimes involving the transportation of obscene matter via the mails, common carriers, interactive computer services, or other means or facilities of interstate or foreign commerce.

EXHIBIT E

U.S. Department of Justice

Criminal Division

Office of Enforcement Operations *Washington, D.C. 20530*

CRM- 201000074P

[illegible] 9 2010

Mr. John Thomas Watters
Reg. No. 09753-062
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159-9000

Dear Mr. Watters:

This is in response to your request dated August 25, 2009 and letter of January 5, 2010.

Since you did not return the attachment to our correspondence dated September 17, 2009 (Current Descriptive List of Sections of the Criminal Division) designating what sections of the Criminal Division you wished searched, we conducted a search of our central index of records and no records were located concerning you.

Since your request may involve records that would be maintained by the Office of an U.S. Attorney, you may also wish to direct a request to the Executive Office for U.S. Attorneys if you have not already done so. Your request should be directed to: Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, Room 7200, 600 E Street, N.W., Department of Justice, Washington, DC 20530-0001.

If you consider this response to be a denial of your request, you have a right to an administrative appeal of this determination. Your appeal should be addressed to: Office of Information Policy, United States Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, DC 20530-0001. Both the envelope and the letter should be clearly marked with the legend "FOIA Appeal." Department regulations provide that such appeals must be received by the Office of Information Policy within sixty days of the date of this letter. 28 C.F.R. 16.9. If you exercise this right and your appeal is denied, you also have the right to seek judicial review of this action in the federal judicial district (1) in which you reside, (2) in which you have your principal place of business, (3) in which the records denied are located, or (4) for the District of Columbia. If you elect to file an appeal, please include, in your letter to the Office of Information Policy, the Criminal Division file number that appears above your name in this letter.

Sincerely,

Rena Y. Kim by [illegible]

Rena Y. Kim, Chief
Freedom of Information/Privacy Act Unit

U.S. Department of Justice
FOIA/PA CRIMINAL DIVISION

Washington, D.C. 20530

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EXHIBIT F

January 5, 2010

Rena Y. Kim, Chief
FOIA/PA Unit
Criminal Division
Keeney Building, Suite 1127
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Request to Provide Definitive Response and Requested Documents Within Thirty (30) Days; CRM-200900656P

Dear Sir or Ms.:

This communication will consitute written demand that your office finalize and resolve all outstanding issues and transfer over to me all documents and records concerning me within thirty (30) days of receipt. In other words, discontinue your obvious policy and practice of delay and provide me all previously requested documents and records which I as a citizen have a right to.

These documents are critically needed in an appeal currently before the 10th Circuit Court of Appeals. If you and your organization do not provide the requested information within thirty (30) days, then I will consider that you have refused my previous requests and will promptly file a FOIA action in federal District Court.

Please advise.

Respectfully submitted,

DATED 4-22-2010 John Thomas Watters

John Thomas Watters
Reg. No.09753-062
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159-9000

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John Watters
09753-062
Bldg 6

Sent To DOJ/FOIA/PA Unit Criminal Div
Street, Apt. No.; or PO Box No. 950 Penn Ave, Suite 1127
City, State, ZIP+4 Wash9ngton, D.C. 20530

PS Form 3800, August 2006 See Reverse for Instructions

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Rena Y. Kim, Chief
FOIA/PA Unit
Criminal Division
Keeney Building, Ste 1127
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by (*Printed Name*) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Number
(*Transfer from service label*) 7008 1140 0002 3357 2959

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